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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GARBE, STEPHEN P

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,933

Applicant(s)

HEFNER, CORBETT T.

Examiner

Stephen Garbe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 22-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

1. Applicant's election of the invention of Group I, claims 1-21, without traverse, is noted. Claims 22-31 are withdrawn from consideration under 37 CFR 1.142(b) as not being drawn to the elected invention.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite because it is unclear what is being claimed beginning with "preventing" in line 11. What is it that the extension prevents?

4. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite for the same reason as claim 20 because it includes all of the limitations of claim 20.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huertas, Spanish publication number 1,033,033 in view of Fox et al, United States Patent No. 6,024,489 (Fox), and further in view of any one of Shigeru, Japanese publication number 2000-142712, or Christensen, United States Patent No. 3,506,185, or Bell, United States Patent No. 5,882,120. Huertas discloses the basic claimed

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combination of a bag having a first side wall 2 of mesh material and a second side wall 1 of film material, the first side wall having a reinforcing strip 4 attached to its upper end. Huertas does not state whether reinforcing strip 4 is attached at its side edges to second side wall 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use synthetic resin material for Huertas's bag, as taught by Fox in column 2, lines 58-67, because they are both produce bags which operate in the same manner to produce the same result. It would have been further obvious to seal the bag side edges together all of the way to the top of the bag, as taught by any one of Shigeru, Christensen, or Bell, because doing so would have provided more storage space for the bag contents. Regarding claims 5-7, the distances recited in those claims would have been an obvious matter of mechanical expedience.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, Huertas discloses holes 4, which can be deemed "wicket holes" because the term "wicket" imparts no structure to the claimed holes. Alternatively, it would have been obvious to substitute wicket holes, as taught by Fox, for Huertas's hand holes because doing so would have allowed a stack of Huertas's bags to be attached to a wicket for the purpose of facilitating filling.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 8. It would have been further obvious to provide the wicket holes with slits extending from them, as also taught by Fox at 40, because they facilitate removing the bag from a wicket.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, the claimed overlap would have been an obvious matter of mechanical expedience.

10. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, the claimed seam strength would have been an obvious matter of mechanical expedience.

11. Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huertas, Spanish publication number 1,033,033 in view of Fox et al, United States Patent No. 6,024,489 (Fox), and further in view of any one of Shigeru, Japanese publication number 2000-142712, or Christensen, United States Patent No. 3,506,185, or Bell, United States Patent No. 5,882,120. Huertas discloses the basic claimed combination of a bag having a first side wall 2 of mesh material and a second side wall 1 of film material, the first side wall having a reinforcing strip 4 attached to its upper end. Huertas does not state whether reinforcing strip 4 is attached at its side edges to second side wall 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use synthetic resin material for Huertas's bag, as taught by Fox in column 2, lines 58-67, because they are both produce bags which operate in the same manner to produce the same result. It would have been further obvious to seal the bag side edges together all of the way to the top of the bag, as taught by any one of Shigeru, Christensen, or Bell, because doing so would have provided more storage space for the bag contents. Furthermore, Huertas discloses holes 4, which can be deemed "wicket holes" because the term "wicket" imparts no structure to the claimed

holes. Alternatively, it would have been obvious to substitute wicket holes, as taught by Fox, for Huertas's hand holes because doing so would have allowed a stack of Huertas's bags to be attached to a wicket for the purpose of facilitating filling. In addition, the claimed dimensions would have been obvious matters of mechanical expedience.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huertas, Spanish publication number 1,033,033 in view of Fox et al, United States Patent No. 6,024,489 (Fox). Huertas discloses the basic claimed combination of a bag having a first side wall 2 of mesh material and a second side wall 1 of film material, the first side wall having a reinforcing strip 4 attached to its upper end. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use synthetic resin material for Huertas's bag, as taught by Fox in column 2, lines 58-67, because they are both produce bags which operate in the same manner to produce the same result. Furthermore, Huertas discloses holes 4, which can be deemed "wicket holes" because the term "wicket" imparts no structure to the claimed holes. Alternatively, it would have been obvious to substitute wicket holes, as taught by Fox, for Huertas's hand holes because doing so would have allowed a stack of Huertas's bags to be attached to a wicket for the purpose of facilitating filling.

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 20 and further in view of any one of Shigeru, Japanese publication number 2000-142712, or Christensen, United States Patent No. 3,506,185, or Bell, United States Patent No. 5,882,120. Huertas does not state whether reinforcing strip 4

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is attached at its side edges to second side wall 1. It would have been obvious to seal the bag side edges together all of the way to the top of the bag, as taught by any one of Shigeru, Christensen, or Bell, because doing so would have provided more storage space for the bag contents.

14. The remaining patents are cited to show other, similar bags.

15. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.

17. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.

Stephen P. Garbe
Primary Examiner
Group 3720